

**REMARKS**

As an initial matter, Applicant would like to thank Examiner Oropeza for the courtesies extended to Applicant's representative during the telephone interviews of July 25 and August 6, 2007. In the interview of July 25, Applicant's representative requested clarity as to the time period for reply to the Office Action mailed on July 16, 2007. The Examiner agreed that, as reflected in the Office Action Summary, the time period for response to the Office Action has been set for thirty (30) days from the mailing date of the Office Action (i.e., August 15, 2007), and that extensions of time are available under the provisions of 37 C.F.R. 1.136(a). In the interview of August 6, Applicant's representative requested a clarification of the reasons relied upon by the Examiner in holding the Response to Election of Species Requirement filed on April 16, 2007, (hereinafter "Response") non-responsive. The Examiner explained that the Response was found to be non-responsive because the claims included terms, such as, for example, "interconnecting member," that are not expressly used in the written disclosure.

Should the Examiner disagree with Applicant's comments on the substance of the interviews, the Examiner is invited to contact the undersigned to resolve such disagreement.

In the Office Action mailed on July 16, 2007, the Examiner alleged that the Response "is not fully responsive to the Office Action [mailed on April 3, 2007,] for two reasons." See July 16, 2007, Office Action at page 2. The Examiner first contended that "the claims as written contain new matter, hence, it is impossible for the Examiner to determine if the claim reads on an elected invention because the limitations are not included and defined in the original specification." *Id.* Based on this contention, the

Examiner required the claims “be rewritten and submitted, the claims including only limitations disclosed in the original specification.” *Id.* Second, the Examiner alleged that since the term “interconnecting member” is not used explicitly in the written disclosure corresponding to Figs. 5a-b, claims 90-100 are not “readable” upon the elected Species VI (Figs. 5A-B).

By this Amendment, Applicant has amended claims 64-66, 68-71, 73, 75, 77, 85-87, 90-92, 94-101, 103, 108-113, and 115. Claims 64-115 are currently pending. Of these claims, claims 64, 75, 90, and 101 are independent.

While the terminology of the claims should generally follow the description, “an applicant is not limited to the nomenclature used in the application as filed.” See M.P.E.P. § 608.01(o). Instead, it is only required that the terminology of the claims “find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.” *Id.* Moreover, claims may find descriptive basis in the original disclosure, which includes “the specification with original claims and drawings, as filed.” See M.P.E.P. § 608.

Although Applicant does not necessarily agree with the Examiner’s allegations, solely in order to expedite the prosecution of this case, Applicant has amended claims 64-66, 68-71, 73, 75, 77, 85-87, 90-92, 94-101, 103, 108-113 and 115, in order to comply with the above-stated Examiner’s requirement. Moreover, in an attempt to facilitate Examiner Oropeza’s review of the pending claims, Applicant has, as set forth below, provided citations that correspond to portions of the originally-filed disclosure that provide clear, exemplary support and antecedent basis for the limitations of independent claims 64, 75, 90, and 101.

<b><u>Amended Independent Claim 64</u></b>	<b><u>Exemplary Support in Disclosure</u></b>
A device for improving heart valve function, the device comprising:	See, for example, page 6, lines 3-4; page 9, lines 6-13; and page 23, lines 8-12.
a first anchoring member;	See, for example, page 6, lines 4-9.
a second anchoring member;	See, for example, page 6, lines 4-9.
a connection member connecting the first and second anchoring members, the connection member being further configured to be positioned adjacent an external surface of a heart wall; and	See, for example, page 6, lines 4-9; page 23, lines 5-8; page 24, lines 6-9; and Figs. 5a-b.
a structure configured to be positioned in contact with an external surface of the heart wall such that the structure exerts an inward force against the heart wall proximate a valve, wherein the inward force is sufficient to alter valve function.	See, for example, page 6, lines 9-11; page 23, lines 8-12; and Figs. 5a-b.

<b><u>Amended Independent Claim 75</u></b>	<b><u>Exemplary Support in Disclosure</u></b>
A method for improving heart valve function, the method comprising:	See, for example, page 6, lines 3-4; page 9, lines 6-13; and page 23, lines 8-12.
providing a device comprising a first anchoring member, a second anchoring member, a connection member connecting the first and second anchoring members, and a structure between the first and second anchoring members;	See, for example, page 6, lines 4-11; page 23, lines 5-12; page 24, lines 6-9; and Figs. 5a-b.
positioning the connection member adjacent an external surface of a heart wall; and	See, for example, Figs. 5a-b.
positioning the structure in contact with an external surface of the heart wall such that the structure exerts an inward force against the heart wall proximate a valve, wherein the inward force is sufficient to alter valve function.	See, for example, page 6, lines 9-11; page 23, lines 8-12 and 19-21; and Figs. 5a-b.

<b><u>Amended Independent Claim 90</u></b>	<b><u>Exemplary Support in Disclosure</u></b>
A device for improving heart valve function, the device comprising:	See, for example, page 6, lines 3-4; page 9, lines 6-13; and page 23, lines 8-12.
a first anchoring member configured to be secured to heart tissue;	See, for example, page 6, lines 4-9; and Figs. 5a-b.
a second anchoring member configured to be secured to heart tissue; and	See, for example, page 6, lines 4-9; and Figs. 5a-b.
a connection member connecting the first anchoring member and the second anchoring member, wherein the connection member is configured to be selectively adjustable so as to alter a tension of the connection member between the first anchoring member and the second anchoring member, and wherein a structure attached to the connection member is configured to be positioned exterior to a heart chamber proximate a valve such that the device exerts an inward force on the heart wall sufficient to alter the valve function.	See, for example, page 6, lines 4-11; page 9, lines 6-13; page 23, lines 5-19; page 24, lines 6-15; and Figs. 5a-b.

<b><u>Amended Independent Claim 101</u></b>	<b><u>Exemplary Support in Disclosure</u></b>
A method for improving heart valve function, the method comprising:	See, for example, page 6, lines 3-4; page 9, lines 6-13; and page 23, lines 8-12.
providing a device comprising a first anchoring member configured to be secured to heart tissue, a second anchoring member configured to be secured to heart tissue, and a connection member connecting the first anchoring member and the second anchoring member; and	See, for example, page 6, lines 4-9; page 23, lines 5-7 and 13-15; page 24, lines 6-12; and Figs. 5a-b.
positioning at least a portion of the connection member exterior to a heart chamber proximate a valve such that the device exerts an inward force on the heart	See, for example, page 6, lines 4-11; page 9, lines 6-13; page 23, lines 5-19; page 24, lines 6-15; and Figs. 5a-b.

sufficient to alter the valve function, wherein a structure is attached to the portion of the connection member, wherein the connection member is configured to be selectively adjustable so as to alter a tension of the interconnecting member between the first anchoring member and the second anchoring member.	
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In view of the foregoing amendments and remarks, Applicant respectfully submits that the Response, together with this Amendment, is fully responsive to the Office Action of April 3, 2007, all of claims 64-115 read on the species of Figures 5a-b, the pending claims do not contain new matter, and the limitations of the pending claims are adequately supported by the originally-filed written specification and drawings. Accordingly, Applicant requests the timely examination and allowance of the pending claims.

If the Examiner wishes to discuss this Amendment with Applicant's representative, the Examiner is invited to telephone the undersigned at (202) 408-4221.

The outstanding Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

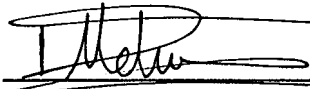
In discussing the specification and claims in this Amendment, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiment described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment and  
charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: August 15, 2007

By:   
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